



## **SUPPLEMENTAL PUBLIC NOTICE**

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### **APPLICATION FOR PERMIT**

**U.S. Army**  
**Corps of Engineers**  
Chicago District

**Public Notice/Application Number:** 200301000  
**Comment Period Begins:** September 6, 2005  
**Comment Period Expires:** October 5, 2005

**Applicant:** City of Chicago, Department of Aviation

**Proposed Action:** Proposal to provide compensatory wetland mitigation for impacts to 153 Acres of Wetland and Waters of the United States for Facilitation of O'Hare Modernization Program (OMP). The intent of this supplemental public notice is to provide a description of the City's current mitigation proposal and to provide information on the formation of a Federal and State mitigation review team that would be responsible for overseeing the completion of the approved wetland mitigation projects. The mitigation proposal has changed over the period of this permit review and this public notices provides the current proposal for comment.

**Location of Proposed Action:** O'Hare International Airport, Des Plaines and DuPage River Watersheds, Cook and DuPage Counties, Chicago, Illinois (Sections 4, 5, 6, 7, 8, 9, 16, 17, and 18, Township 41 North, Range 10 East, 3rd P.M.) (see Exhibit 1 and 2).

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein. You are invited to provide your comments on the proposed work, which will become part of the record and will be considered in the decision. A permit will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Please send

written comments on the project to the Corps of Engineers OMP Project Manager, Kathy Chernich. Comments should be mailed to:

U.S. Army Corps of Engineers, Chicago District  
111 N. Canal Street, Ste. 600  
Chicago, Illinois 60606  
Attn: Kathy Chernich, Regulatory Branch  
Telephone: (312) 846-5531, FAX: (312) 353-4110  
email address: kathy.g.chernich@usace.army.mil

It should be noted that comments received via e-mail can only be accepted with the full name and address of the individual commenting. You can visit the Federal Aviation Administration website at <http://www.agl.faa.gov/OMP/> for more information on the project.

**Project Description:** The City has submitted to the Corps a revised wetland mitigation proposal to compensate for the proposed discharge of fill material into approximately 153 acres of wetlands, creeks and drainage ditches. The City is proposing to utilize two different approaches to satisfy the proposed mitigation requirements. The first would be to purchase a number of mitigation credits from a recently authorized Wetland Mitigation Bank (Lily Cache Creek Wetland Mitigation Bank, Bolingbrook, IL) and secondly, by establishing an In-Lieu Fee program which would include an up-front, non-refundable wetland mitigation fee to an Illinois not-for-profit corporation, CorLands. CorLands is an affiliate of Openlands Project, a nonprofit conservation organization whose primary mission is to help communities in northeastern Illinois increase the quantity and quality of open space for public enjoyment.

CorLands would use the In-Lieu Fee to (a) identify and assess ecologically appropriate stream and wetland mitigation opportunities in the Des Plaines River watershed located within the Chicago District (b), implement practical plans to protect, purchase, enhance, restore and monitor the mitigation projects (c) pay all reasonable, customary and necessary costs and expenses of administering the funds in the OMP account and (d), establish financial, technical, and legal mechanisms to work towards the long-term success of the mitigation projects.

A Mitigation Review Team (MRT) would be established for the purpose of reviewing and approving appropriate mitigation projects from the mitigation proposals provided by CorLands. The MRT would consist of members of the United States Army Corps of Engineers (USACE), the United States Environmental Protection Agency (USEPA), the Illinois Protection Agency (IEPA), the U.S. Fish & Wildlife Service (USFWS), and the

Federal Aviation Administration (FAA). The overall goal of the MRT would be to evaluate CorLands proposed mitigation projects within the Des Plaines River watershed that would satisfy the requirements of the OMP permit. The MRT would intend for the proposed mitigation projects to provide significant wetland, wildlife, natural resources and public benefits that exceed the values of the resources proposed to be impacted through the OMP.

CorLands would propose specific mitigation projects to the MRT for review and approval. A formal In-Lieu Fee agreement would be established between the MRT and CorLands for the establishment and operation of multiple mitigation sites. The agreement would contain the following requirements:

1. Description of the sponsor's experience and qualification with respect to providing compensatory mitigation;
2. Potential site locations, baseline conditions at the sites, and general plans that indicate the type of wetland compensation to be provided (e.g., wetland type, restoration or other activity, proposed time line, etc.);
3. Geographic service area;
4. Accounting procedures;
5. Methods for determining fees and credits;
6. A schedule for conducting the activities that will provide compensatory mitigation or a requirement that projects will be started within a specified time after impacts occur;
7. Performance standards for determining ecological success of mitigation sites;
8. Reporting protocols and monitoring plans;
9. Financial, technical and legal remedies and responsibilities (e.g., contingency fund);
10. Financial, technical and legal provisions long-term management and maintenance of the sites (e.g., trust); and
11. Provision that clearly states that the legal responsibility for ensuring mitigation terms are fully satisfied rests with the organization accepting the fee.

**Regulatory Authority/Jurisdiction:** The proposed wetland mitigation proposals will be reviewed according to the provisions of Section 10 of the Rivers and Harbors Act of

1899 and Section 404 of the Clean Water Act.

**Evaluation Factors** - The decision whether to issue a permit for activities will be based on an evaluation of probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, if the proposed activity involves the discharge of dredged or fill material into waters of the United States, the evaluation of the impact on the public interest will include application of Section 404(b)(1) guidelines (40 CFR 230) promulgated by the U.S. Environmental Protection Agency.

The Corps of Engineers is soliciting comments from the public, Federal, state and local agencies, Indian tribes, and other interested parties in order to consider and evaluate the potential impacts of the proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on the public interest factors listed above, as well as endangered species, historic properties, water quality, and general environmental effects. Comments will be used in the preparation of an Environmental Assessment and/or Environmental Impact Statement pursuant to the National Environmental Policy Act. A determination concerning the need for a public hearing will also be based on the comments received.

#### **Preliminary Evaluation of Selected Factors**

**Water Quality** - The applicant has applied to the Illinois Environmental Protection Agency (IEPA) for water quality certification, or waiver thereof, for the proposed activity in accordance with Section 401 of the Clean Water Act. Certification or waiver indicates that IEPA believes the activity will not violate applicable water quality standards. The review by the IEPA is conducted in accordance with the Illinois water quality standards under

35 Illinois Administrative Code Subtitle C. The water quality standards provide for the IEPA to review individual projects by providing an antidegradation assessment, which includes an evaluation of alternatives to any proposed increase in pollutant loading that may result from this activity. The "Fact Sheet" containing the antidegradation assessment for this proposed project may be found on the IEPA's web site, at [www.epa.state.il.us/public-notices/](http://www.epa.state.il.us/public-notices/). In the event that the IEPA is unable to publish the "Fact Sheet" corresponding to the timeframe of this Joint Public Notice, a separate public notice and "Fact Sheet" will be published by the IEPA at the web site identified above.

**Endangered and Threatened Species** - The Corps of Engineers has determined that the proposed activity would not affect any federally-listed endangered or threatened species or critical habitat for any endangered or threatened species, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). Therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act does not appear to be warranted.

**Historic Properties/Cultural Resources** - Preliminary review indicates that the proposed activity may adversely affect an historic property that has been listed, or determined eligible for listing, on the National Register of Historic Places. A Phase I archaeological survey has been conducted by the applicant and on November 5, 2004 the Illinois Historic Preservation Agency (IHPA) wrote that no archaeological properties are affected by the undertaking and therefore, IHPA has no objection to the undertaking proceeding as planned.

**Environmental Impact Statement** - A Final Environmental Impact Statement (FEIS) was published on July 28, 2005 and is available at <http://www.agl.faa.gov/OMP/FEIS.htm>. There is a public comment period for that document until September 6, 2005.

Interested parties wishing to comment on the proposed activity must do so by in writing. It is presumed that all parties receiving this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply Corps of Engineers endorsement of the project as described.

FOR THE DISTRICT ENGINEER:

/Original Signed/

Mitchell A. Isoe  
Chief, Regulatory Branch